IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

A.O. No. 176 of 2002
(Under section 173 of Motor Vehicles Act, 1988)

District : Udham Singh Nagar.

1. Smt. Amina w/o Late Rayees Ahmad,
2. Anis Ahmad, aged about 17 years,
   S/o late Rayees Ahmad.

3. Anjum aged 15 years,
4. Rukhsar aged 13 years,
5. Gulabsha, aged 10 years,
6. Hina, aged 6 years,
7. Rani, aged 4 years,

Nos.3 to 7 minors, d/o late Rayees Ahmad,
Through their mother and natural guardian
Smt. Amina, widow of Sri Rayees Ahmad.
All rr/o Mohalla Chauhanan, Jaspur, Tahsil
Kashipur, District Udham Singh Nagar.

……Appellants,

Versus

1. Sri Sachin Bhatiya s/O Sri Sahib Ram Bhatiya,
   r/o Govindnagar, Kotdwar, Distt. Garhwal,
   (owner Maruti Van No.UP-06-5522)

2. Shri Rajiv Sharma s/o Chet Ram Sharma,
   R/o Laluwala Dhanora, Adarsh Colony,
   Najibabad, District Bijnore (Driver Maruti Van)

3. The Oriental Insurance Company Lts.,
   Branch Kashipur, through its Manger.

……..Respondents.

Sri Dharam Veer, Advocate, for appellants.

September 16, 2004.

Hon'ble P.C.Verma, J.,
Hon'ble B.S. Verma, J.

This appeal has been field for enhancement of amount of award dated 10.5.2002 passed by Motor Accident Claims Tribunal/Addl. District Judge/Ist FTC, Kashipur in M.A.C. No. 115 of 2001.

On the fateful day of 20.5.2001, the deceased Rayees Ahmad was going to do his work at 7.30 a.m. The Maruti van of the respondent No.1 crushed him at a triangular way of village Rajpur, P.S. Jaspur, District U.S. Nagar due to rash and negligent driving of its driver. Due to the injuries sustained, he died after some time. He was aged 38 Years and earning Rs. 3600/- per month as alleged by the claimants. The learned Tribunal on the statement of his employer PW3 Rafiuddin found that he was a casual labourer and as such took his notional income as Rs.15,000/- per year and after deducting one-third as his personal expenses, determined the dependency at Rs.10,000/- per year and applied the multiplier of 15 which came to Rs.1,50,000/-, and further awarded Rs.5000/- as consortium and Rs.2000/- as funeral expenses.

We have heard the learned counsel for claimants/appellants who has pressed this appeal only on the point that the learned Tribunal has wrongly applied the multiplier of 156 while at the age of 38 years of the deceased, the multiplier of 16 should have been applied. We find that the Second Schedule to section 163A of the Motor Vehicles Act provides for a multiplier of 16 for the persons above 35 years but not exceeding 40 years of age. We find force in the argument of learned counsel for the appellant. This appeal is liable to be allowed to the extent that multiplier of 16 should have been applied to the yearly income of deceased Rayees Ahmad as assessed by the learned Tribunal in place of the multiplier of 15.

The appeal is accordingly allowed to the extent that compensation is assessed by applying the multiplier of 16 instead of 15 in this case, resulting that the amount of compensation comes to Rs.1,67,000/- instead of Rs.1,57,000/-. Rest of the findings of the learned Tribunal are confirmed.

The amount of compensation deposited in this Court be remitted to the Tribunal concerned. No order as to costs.

(B.S.Verma, J.) **(P.C. Verma, J.)**

SPA/16.9.04